

Martha G. Bronitsky, #127583
Chapter 13 Standing Trustee
Leo G. Spanos, #261837, Staff Attorney
Nima Ghazvini, #254758, Staff Attorney
Po Box 5004
Hayward, CA 94540

Trustee for Debtor(s)

**THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

In re

Antonio P Aranzamendez

Flordeliza M Aranzamendez

Debtors

Chapter 13 Case No. 16-40951-CN 13

Chapter 13 Trustee's Objection to
Modification of Chapter 13 Plan and
Motion to Dismiss Chapter 13 Case

Objection Information

Trustee Objects To: Amended Motion to Modify Chapter 13 Plan
Filed: 11/22/2016
Docket#: 38

Motion To Dismiss Information

☐ Trustee Seeks To Dismiss the Case ☒ Trustee Does Not Seek to Dismiss the Case

(See II. Motion To Dismiss Below)

Case Information

Petition Filed: April 11, 2016

Attorney Name: NATHAN D BORRIS ATTY

I. Objection

Martha G. Bronitsky, Chapter 13 Trustee in the above referenced matter, opposes modification of the Chapter 13 Plan on the following grounds:

Post-Confirmation Plan Modification 11 U.S.C. §1329, §1329(b)(1), §1325(a), §1329(c), §1322(b) and §1323(c)

☐ (1) The plan fails to provide for submission of all or such portion of future earnings or other future income to the supervision and control of the Trustee as is necessary for execution of the plan. [11 U.S.C. §1322(a)]

Facts:

☐ (2) The plan fails to provide for the full payment, in deferred cash payments, of all claims entitled to priority under 507 of this title [11 U.S.C. §1322(a)]

Facts:

☐ (3) The plan fails to provide for the same treatment of claims classified within a particular class. [11 U.S.C. §1322(a)]

Facts:

☐ (4) The plan unfairly discriminates between a class or classes of unsecured claims. [11 U.S.C. §1322(b)]

Facts:

☐ (5) The plan impermissibly modifies the claim of the creditor secured only by a security interest in real property that is the Debtors' principal residence. [11 U.S.C. §1322(b)]

Facts:

☐ (6) The plan fails to provide for the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed unsecured claim is at least the amount that would be paid on such claim if the estate of the Debtors was liquidated under Chapter 7 of this title on such date. [11 U.S.C. §1325(a)(4)]

Facts:

☒ (7) The Plan is not feasible. The Debtors will not be able to make all payments under the plan and comply with the plan. [11 U.S.C. §1325(a)(6)]

Facts: The motion/modified plan seeks to increase payments to \$1,032 starting in November 2016 yet the Debtors only made a payment of \$304.

☐ (8) The Debtors have not paid all domestic support obligation as required by 11 U.S.C. §1325(a)(8).

Facts:

☐ (9) The Debtor(s) have not filed all applicable tax returns required by 11 U.S.C. §1325(a)(9)

Facts:

☐ (10) The plan does not provide for the payment of equal monthly amounts to allowed secured claims. [11 U.S.C. §1325(a)(B)(ii)(I)]

Facts:

☐ (11) The plan has not been proposed in good faith [11 U.S.C. 1325(a)(3)] and/or the action of the Debtors in filing the petition was in bad faith. [11 U.S.C. §1325 (a)(7)]

Facts:

☐ (12) The plan provides for payments to creditors for a period longer than five (5) years [11 U.S.C. §1329(b)(1)]

Facts:

☐ (13) With respect to each allowed secured claim provided for by the plan, the plan fails to provide for the value, as of the effective date of the plan, of property to be distributed under the plan on account of each allowed amount of such claim. [11 U.S.C. § 1325(a)(5)(B)(ii)]

Facts:

☐ (14) Secured creditor deemed to have accepted or rejected plan as modified. [11 U.S.C. { @section } 1323(c)]

Facts:

☐ (15) Other:

Facts:

Other Documents Filed Concurrently Herewith
--

☐ Other:

III. Trustee's Recommendation/Analysis

☒ The Motion to Modify the Plan should be denied.

☐ Other:

WHEREFORE, the Trustee requests:

☒ That the Trustee's objection to Motion to Modify of the plan be sustained.

☐ That the Debtors' case be dismissed.

Such other and further relief as the court deems proper.

Date: 12/19/2016

/s/ Trustee Martha G. Bronitsky
Trustee Martha G. Bronitsky
Chapter 13 Trustee

Certificate of Service

I HEREBY CERTIFY that I have served a copy of the within and foregoing document on the Debtors, Counsel for Debtors, and if applicable, the Creditor, Creditor representatives and the registered agent for the Creditor by depositing it in the United States Mail with First Class postage attached thereto.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: December 19, 2016

/s/ Veronica Valdez

Veronica Valdez

Antonio P Aranzamendez
Flordeliza M Aranzamendez
15126 Andover St
San Leandro, CA 94579

Nathan D Borris Atty
1380 A Street
Hayward, CA 94541

(Counsel for Debtor)

Debtors